



The Initiative and Referendum in Ohio June 2012

INTRODUCTION

Ohio has constitutional amendment, initiative and referendum processes. These allow citizens to vote directly on whether to change Ohio's constitution and laws. The constitution has included provisions for citizen-initiated efforts to amend Ohio's constitution or statutes since 1912, however, recently we have seen an increase in ballot initiatives and referendums.

This increase in ballot initiatives and referendums leads to many questions: What are the methods by which the constitution can be amended? Is it good that Ohio has these processes? Should we keep them the same, eliminate them, or modify them? How can changes be made? This sheet explains questions and provides helpful information in assessing this matter and answering these questions.

ISSUE

1. Changing the Ohio Constitution

There are four ways that the constitution of the state of Ohio can be changed.

- Referral by General Assembly
- Citizen Initiated Constitutional Amendment
- Constitutional Convention Called by Legislature
- Constitutional Convention Called During Statewide Election.

Referral by the General Assembly: Ohio is one of 49 states where the General Assembly can propose a constitutional amendment to be voted on by the people. Recent examples include 2009 State Issue 2, which created the Ohio Livestock Care Standards Board. This requires a resolution introduced in either chamber and passed with a 3/5 majority in both chambers at least 90 days prior to the election. Resolutions are referred to the Secretary of State and the Ohio Ballot Board prior to the election for certification and preparation of arguments for and against the issue. Between 1912 and 2009, there were 148 constitutional amendments proposed by the General Assembly. One hundred (100) of those have passed.

Citizen Initiated Constitutional Amendment: Ohio is one of 18 states where citizens can initiate constitutional amendments. Recent examples include minimum wage requirements and some casino proposals. In this process, a group of petitioners drafts proposed language and a summary of the language, gets the signatures of 1000 Ohio voters, and submits the package to the Secretary of State (to verify signatures) and Attorney General (certifies that the summary is truthful and accurate). Once accomplished, the proposal is forwarded to the Ohio Ballot Board (certifies that there is only one constitutional amendment contained in the proposal). If these are all accomplished, petitioners can begin to gather

signatures equal to 10 % of the number of voters in the last gubernatorial election (currently 385,235¹). Signatures must be gathered from at least 44 of Ohio's 88 counties, with at least 5% of the votes cast in that county during the last gubernatorial election. Only individuals who are currently qualified electors (voters) in Ohio can sign a petition. Petitioners are required to submit signatures to the Ohio Secretary of State (SOS) no later than 125 days prior to the next general election. The SOS will have up to 20 days to verify signatures. If there are not sufficient signatures, petitioners will have ten additional days to gather necessary signatures. Once sufficient signatures are gained, the proposal is referred to the Ohio Ballot Board prior to the election for certification and the preparation of arguments for and against the proposal. Between 1912 and 2009, there were 205 citizen-initiated constitutional amendments that have qualified for the ballot, of which 112 have passed.

Constitutional Convention: Article 16 of the Ohio Constitution provides for two means of convening a constitutional convention. Section 2 outlines a mechanism by which 2/3 of the General Assembly can vote to hold a constitutional convention. To the best knowledge of OFBF staff, this has never been done. Section 3 outlines a mechanism where a Constitutional Convention is convened via statewide election every 20 years, the next will be on the 2012 ballot.

2. Changing the Ohio Revised Code

There are several ways that statutory changes can be made in Ohio. These include:

- Legislation enacted by the General Assembly and signed by the Governor
- Legislation proposed via initiated statute
- Legislation passed by the General Assembly and affirmed or denied via a citizen-initiated referendum process.

Enacted Legislation: Legislation that is passed by a majority vote of both chambers of the General Assembly and signed by the governor (or vetoed by the Governor with an override vote by the General Assembly) becomes law without citizen action.

Initiated Statutes: The process is very similar to the process for a citizen initiated constitutional amendment, except petitioners need only gain the signatures of 3% of the citizens who voted in the last gubernatorial election and signatures must be gathered from at least 44 counties, with each of those counties having signatures from at least 1.5% of the last gubernatorial election. If the needed signatures are gathered within required timing, the proposed legislation is introduced in the House or the Senate as a bill. The House and the Senate have 4 months to act upon the legislation. If they do not act or if they act in a way that is not favorable to the petitioners, the petitioners can seek additional signatures of 3% of population who voted in the last gubernatorial election. If that is done 125 days prior to the next general election, then the proposed statutory change goes on the ballot. A recent example of an initiated statute in Ohio is the smoking ban.

Referendum: A referendum is when voters are asked to approve or reject legislation passed by the General Assembly. The number of signatures that must be gained is 6%: with at least 3% in each of 44 counties, and the signatures must be collected within 90 days of the Governor signing a law and filing it with the secretary of state. Matters not subject to

¹ Will change following 2014 election.

a referendum are: emergency laws necessary for the immediate preservation of public peace, health or safety, tax levies, and appropriations for current expenses for state government. A recent example of a referendum vote in Ohio was HB 545 of the 127th General Assembly, also known as Issue 5 on the November 2008 ballot or “The Payday Lending Act.” The referendum failed and the law was upheld as passed by the General Assembly. There are 25 states (including Ohio) that permit a citizen-initiated referendum.

Looking at the Process

Significantly altering or eliminating the constitutional amendment or initiative and referendum processes would require a change in the Ohio Constitution, whereas some minor adjustments could be made via revised code. Proponents of the current system say no changes are needed. Others call for changes to the system that include everything from elimination to alterations like changing the number of signatures needed to place an issue on the ballot or increasing the number of votes needed to pass a proposal. Structural changes to the program could model what is done in other states and include concepts such as:

- Requiring state agency review or drafting
- Restrict certain subjects from initiative (examples include tax and expenditures) or restrict legislature from repealing citizen initiated statutes (or require supermajority)
- Require a “waiting” period or that the issue appear on the ballot more than one time
- Ban similar issues from being on ballot consecutive years
- Require technical hearings or amendments in certain instances
- Alter or amend the circulation time periods or establish public notice provisions
- Establish campaign finance considerations or financial disclosure requirements

Each of these proposals has potential benefits and potential drawbacks, which is generally true of the process Ohio currently has, and should be weighed carefully in our complex system of government.

OFBF POLICY

Initiative and Referendum 129

We encourage a comprehensive review of initiative and referendum provisions in Ohio law.

DISCUSSION QUESTIONS

- Do you feel that the initiative and referendum processes are good tools for the people of Ohio to pass new laws or repeal laws enacted by the General Assembly?
- How does having such a process in Ohio effect how we make public policy decisions in the state?
- Do you feel like the current process is fair? Are the signature requirements sufficient, too high, or too low?

- Ohio is one of 26 states with a citizen-initiated process (constitution, statute, or referendum). Should we retain all of these processes? (See attached for examples)
- Ohio has a direct initiated constitutional amendment process, but an indirect statutory amendment process. Is that a good idea? Should both be direct? Should both be indirect? (See attached for explanation of direct/indirect)
- One criticism that has been made about the initiative and referendum is that with the advent of professional signature gathering firms, any organization that has sufficient money can place an issue on the ballot or repeal a law. Do you think that this is a fair criticism?
- In 2012, the legislature will hear from a constitutional commission – a bipartisan group of citizens and lawmakers who will review Ohio’s Constitution to suggest changes in our Constitution. Should Ohio take a position on the initiative and referendum system during this process?

Initiative and Referendum States

Updated May 2009

State	Statutes		Constitution
	Initiative	Popular Referendum	Initiative
Alaska	I	Yes	None
Arizona	D	Yes	D
Arkansas	D	Yes	D
California	D	Yes	D
Colorado	D	Yes	D
Florida	None	No	D
Idaho	D	Yes	None
Illinois	None	No	D
Maine	I	Yes	None
Maryland	None	Yes	None
Massachusetts	I	Yes	I
Michigan	I	Yes	D
Mississippi	None	No	I
Missouri	D	Yes	D
Montana	D	Yes	D
Nebraska	D	Yes	D
Nevada	I	Yes	D
New Mexico	None	Yes	None
North Dakota	D	Yes	D
Ohio	I	Yes	D
Oklahoma	D	Yes	D
Oregon	D	Yes	D
South Dakota	D	Yes	D
Utah	D & I	Yes	None
Washington	D & I	Yes	None
Wyoming	I	Yes	None
U.S. Virgin Islands	I	Yes	I

Initiative – a law or constitutional amendment introduced by citizens through a petition process either to the legislature or directly to the voters.

D – *Direct Initiative*; proposals that qualify go directly on the ballot

I – *Indirect Initiative*; proposals are submitted to the legislature, which has an opportunity to act on the proposed legislation. The initiative question will subsequently go on the ballot if the legislature rejects it, submits a different proposal or takes no action.

I -- Alaska and Wyoming's initiative processes are usually considered indirect. However, instead of requiring that an initiative be submitted to the legislature for action, they only require that an initiative cannot be placed on the ballot until after a legislative session has convened and adjourned.

Popular Referendum – a process by which voters may petition to demand a popular vote on a new law passed by the legislature.

Source: NCSL: <http://www.ncsl.org/legislatures-elections/elections/chart-of-the-initiative-states.aspx>